

### **REMARKS**

The Office Action dated September 29, 2004, has been carefully considered. Applicant appreciates the Examining Attorneys efforts in conducting a comprehensive examination.

The specification was objected to due to an informality. Claim 7 was rejected under 35 U.S.C. 102(b) as being anticipated by either Wanless (454,096) or alternatively Cousin (3,731,342). Claims 1 – 6 were rejected under 35 U.S.C. 102(b) as being anticipated by either Kelley (3,674,299) or alternatively Shatters (4,339,844). Finally, claims 1 – 7 were rejected under 35 U.S.C. 102(b) as being anticipated by Cousin (3,731,342).

The claims have been amended to a scope considered commensurate with the prior art and the Examiner's comments. Claims 1 – 3 and 5 – 7 were cancelled. Claim 4 was amended. Claim 8 was added. Claims 4 and 8 remain pending. No new matter has been added. Reconsideration is respectfully requested.

The rejections under 35 U.S.C. 102 have been traversed. Claim 4 has been amended to incorporate the limitations of cancelled claims 5 – 7, and to more clearly distinguish the Applicant's claimed invention from the prior art cited by the Examiner. New claim 8 has been added, and is also believed to be distinguishable over the cited art.

More particularly, Applicant has amended the claims by more clearly defining the relation between the first and second pivotally connected arms.

Applicant provides pivotally connected first and second arms. The first arm is adapted to bear against the upper edge of the firebox, and the second arm is adapted to bear against the lower edge of the cover. The fire box engaging arm has a pivotally connected end portion defining a circular aperture and a peripheral edge defining radial notches. The cover engaging arm has a pivotally connected end portion defining a slotted aperture and includes a projecting locking member to lock the arms relative to one another upon insertion with one of the radial notches defined by the fire box engaging arm. The slotted aperture is thus significant in allowing the arms to slide relative to one another so as to seat and unseat the locking member within the radial notches. A telescopically adjustable pivot pin is provided for mounting the apparatus to the side of grills of varying width. The telescopically adjustable pivot pin thus not only functions to mount the arms to the grill, but further functions as a pivot pin for the hinges connecting the cover to the fire box.

U.S. Patent No. 454,096, issued to Wanless, discloses a hot air register having a ratchet assembly of opening and closing the register, and is considered non-analogous art. The Examiner primarily cites Wanless for disclosing a telescopically adjustable pivot pin at Figure 3. Applicant, however, is unable to find support for the Examiner's statement. Wanless, at FIG. 3, appears merely to disclose a spindle (G) inserted within rollers (H and K). As discussed above, Applicant discloses a pivot pin that is telescopically adjustable, e.g. adjustable in length. Wanless fails to disclose a telescopically adjustable pivot pin.

U.S. Patent No. 3,674,299, issued to Kelley, discloses an adjustable trunk lid holder wherein a pair of arms may be angularly adjusted and then locked in face-to-face abutment a locking teeth defined on each opposing face. Accordingly, Kelley requires the opposed faces to be separated for adjustment and then brought into engagement for locking. Kelley thus teaches away from Applicant's invention wherein the arms slide relative to one another to lock and unlock.

U.S. Patent No. 3,731,342, issued to Cousin, discloses an articulation for adjustment of inclination of a seat back for motor vehicles. Cousin discloses two bearing brackets wherein bolts are axially received within holes defined in plates. Accordingly, Cousin, like Kelley, requires axial movement to achieve locking, while Applicant relies on slidable movement. Cousin fails to disclose the peripheral notch and radially movable locking member disclosed and claimed by Applicant.

U.S. Patent No. 4,339,844, issued to Shatters discloses an assembly for holding open a door or the like wherein first and second arms are pivotally connected and lockable by axial movement of a locking pin. FIGS. 3 and 4 show the unlocked and locked configurations respectively.

In view of the amendments and remarks above, Applicant believes that the presently claimed invention is patentably distinguishable over the cited references. Applicant respectfully requests reconsideration.

Should the Examiner have any questions, comments, or concerns, the undersigned would appreciate a telephone conference in order to expedite this case.


This response is being filed on Monday, January 31, 2005 along with a Petition for One Month Extension of Time, and is timely since January 29, 2005 fell on a Saturday.

Respectfully submitted,

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